

Entered - 03/25/05 - sb  
CL05L0225 - DIANNE C. MITCHELL

05-R-0804

CLAIM OF: **PATRICIA C. LANDER**  
1367 Battleview Drive  
Atlanta, Georgia 30327

For damages alleged to have been sustained as a result of  
flooding on September 17, 2004 at 1367 Battleview Drive.

THIS ADVERSED REPORT IS APPROVED

BY: \_\_\_\_\_

**JERRY L. DELOACH**  
DEPUTY CITY ATTORNEY

## ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE: \_\_\_\_\_

CHAIR: \_\_\_\_\_

ADVERSED BY  
CITY COUNCIL

JUN 0 6 2005

C. T. Martin

Carla Smith

Joyce M. Sheppard

Hand Shaul



**CITY OF ATLANTA  
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK**

**55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103**

June 11, 2005

Patricia C. Lander  
1367 Battleview Drive  
Atlanta, GA 30327

**05-R-0804**

Dear Ms. Lander:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on June 06, 2005. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400.**

Sincerely,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 05L0225

Date: April 25, 2004

Claimant /Victim PATRICIA C. LANDER

BY: (Atty)(Ins. Co.) \_\_\_\_\_

Address: 1367 Battleview Drive, Atlanta, Georgia 30327

Subrogation: \_\_\_\_\_ Claim for Property damage \$ 380,000.00 Bodily Injury \$ \_\_\_\_\_

Date of Notice: 03/16/05 Method: Written, proper X Improper \_\_\_\_\_

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 09/17/04 Place: 1367 Battleview Drive

Department Watershed Management Bureau: Waste Water Treatment & Collections

Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

**NATURE OF CLAIM:** The claimant alleges her property was damaged due to flooding. The investigation determined that the cause of the flooding was due to heavy rainfall causing Peachtree Creek to flood and that the claimant's property lies in a flood plane. The City had no notice of any problems with the storm water system in this area prior to this event. Furthermore, the City is not responsible for the maintenance of Peachtree Creek as it is a State waterway. The City is immune from liability as set forth in O.C.G.A. §36-33-1.

### INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_

Pictures \_\_\_\_\_ Diagrams X Reports: Police \_\_\_\_\_ Dept Report \_\_\_\_\_ Other \_\_\_\_\_

Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

### BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_

Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other X Damages reasonable \_\_\_\_\_

City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_

Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_

Claimant Negligent \_\_\_\_\_ City Negligent \_\_\_\_\_ Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

### RECOMMENDATION:

Pay \$ \_\_\_\_\_ Adverse X Account charged: 1A01 \_\_\_\_\_ 2J01 \_\_\_\_\_ 2H01 \_\_\_\_\_ 2P01 \_\_\_\_\_

Claims Manager:  Concur/date 04/27/05

Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

RCS# 6714  
6/06/05  
2:56 PM

Atlanta City Council

## Regular Session

CONSENT I

CONSENT I PG(S) 3-18 EXCEPT:05-O-0893  
05-R-1006 05-R-1001  
ADOPT

|              |    |
|--------------|----|
| YEAS:        | 14 |
| NAYS:        | 0  |
| ABSTENTIONS: | 0  |
| NOT VOTING:  | 1  |
| EXCUSED:     | 0  |
| ABSENT       | 1  |

|           |             |           |            |
|-----------|-------------|-----------|------------|
| Y Smith   | Y Archibong | Y Moore   | Y Mitchell |
| Y Starnes | Y Fauver    | Y Martin  | Y Norwood  |
| Y Young   | Y Shook     | Y Maddox  | Y Willis   |
| Y Winslow | Y Muller    | B Sheperd | NV Borders |

CONSENT I

|                                 |                                 |                                  |                                  |
|---------------------------------|---------------------------------|----------------------------------|----------------------------------|
|                                 |                                 |                                  | <b>06-06-05 Council Meeting</b>  |
| <b>ITEMS ADOPTED ON CONSENT</b> | <b>ITEMS ADOPTED ON CONSENT</b> | <b>ITEMS ADVERSED ON CONSENT</b> | <b>ITEMS ADVERSED ON CONSENT</b> |
| 1. 05-O-0891                    | 31. 05-R-0963                   | 49. 05-R-0794                    | 80. 05-R-0947                    |
| 2. 05-O-0890                    | 32. 05-R-0964                   | 50. 05-R-0796                    | 81. 05-R-0948                    |
| 3. 05-O-0894                    | 33. 05-R-0966                   | 51. 05-R-0797                    | 82. 05-R-0949                    |
| 4. 05-O-0668                    | 34. 05-R-0967                   | 52. 05-R-0798                    | 83. 05-R-0950                    |
| 5. 05-O-0667                    | 35. 05-R-0918                   | 53. 05-R-0802                    | 84. 05-R-0951                    |
| 6. 05-O-0899                    | 36. 05-R-0919                   | 54. 05-R-0803                    | 85. 05-R-0952                    |
| 7. 05-O-0816                    | 37. 05-R-0920                   | 55. 05-R-0804                    | 86. 05-R-0953                    |
| 8. 05-O-0817                    | 38. 05-R-0921                   | 56. 05-R-0808                    | 87. 05-R-0958                    |
| 9. 05-R-0983                    | 39. 05-R-0922                   | 57. 05-R-0809                    |                                  |
| 10. 05-R-0984                   | 40. 05-R-0923                   | 58. 05-R-0811                    |                                  |
| 11. 05-R-0985                   | 41. 05-R-0924                   | 59. 05-R-0813                    |                                  |
| 12. 05-R-0986                   | 42. 05-R-0925                   | 60. 05-R-0815                    |                                  |
| 13. 05-R-0987                   | 43. 05-R-0926                   | 61. 05-R-0928                    |                                  |
| 14. 05-R-0959                   | 44. 05-R-0927                   | 62. 05-R-0929                    |                                  |
| 15. 05-R-0994                   | 45. 05-R-0954                   | 63. 05-R-0930                    |                                  |
| 16. 05-R-0995                   | 46. 05-R-0955                   | 64. 05-R-0931                    |                                  |
| 17. 05-R-0996                   | 47. 05-R-0956                   | 65. 05-R-0932                    |                                  |
| 18. 05-R-0997                   | 48. 05-R-0957                   | 66. 05-R-0933                    |                                  |
| 19. 05-R-0998                   |                                 | 67. 05-R-0934                    |                                  |
| 20. 05-R-0989                   |                                 | 68. 05-R-0935                    |                                  |
| 21. 05-R-0974                   |                                 | 69. 05-R-0936                    |                                  |
| 22. 05-R-0975                   |                                 | 70. 05-R-0937                    |                                  |
| 23. 05-R-0973                   |                                 | 71. 05-R-0938                    |                                  |
| 24. 05-R-0898                   |                                 | 72. 05-R-0939                    |                                  |
| 25. 05-R-0977                   |                                 | 73. 05-R-0940                    |                                  |
| 26. 05-R-0978                   |                                 | 74. 05-R-0941                    |                                  |
| 27. 05-R-0979                   |                                 | 75. 05-R-0942                    |                                  |
| 28. 05-R-0980                   |                                 | 76. 05-R-0943                    |                                  |
| 29. 05-R-1000                   |                                 | 77. 05-R-0944                    |                                  |
| 30. 05-R-0962                   |                                 | 78. 05-R-0945                    |                                  |
|                                 |                                 | 79. 05-R-0946                    |                                  |